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EXAMINER

BOESEN, AGNIESZKA

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Applicant's preliminary amendment filed February 14, 2007 is acknowledged. Claims 1-130 are pending and subject to the following restriction requirement.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-52 and 130, drawn to an isolated hepatitis B variant and a vaccine comprising an agent from a surface component of an HBV variant.

Group II, claim(s) 53-74 and 129, drawn to a method for determining the potential for an HBV to exhibit reduced sensitivity to a nucleoside or nucleotide analog.

Group III, claim(s) 75-87, drawn to a method for detecting an agent which exhibits inhibitory activity to an HBV which exhibits resistance or decreased sensitivity to one or more of ADV, LMV, TFV and/or FTC.

Group IV, claim(s) 88-100, drawn to a computer product for assessing the usefulness of a viral variant or biological sample.

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Group V, claim(s) 101-112, drawn to a use of an HBV variant in the manufacture of a medicament for the treatment or prophylaxis of HBV infection.

Group VI, claim(s) 113-124, drawn to a method for detecting a variant HBV exhibiting an altered immunological profile.

Group VII, claim(s) 125-128, drawn to a kit for an assay for variant HBV comprising genetic agents capable of detecting an altered polymerase gene and/or an altered surface antigen gene on the HBV variant.

The inventions listed in groups I, II, III, IV, V, VI and VII do not relate to a single general inventive concept under PCT Rule 13.1 because they lack the same or corresponding special technical features for the following reasons: the shared technical feature of the claimed invention is an isolated hepatitis B variant comprising a nucleotide mutation in a gene encoding a DNA polymerase and in S gene and methods for determining the potential for an HBV to exhibit reduced sensitivity to a nucleoside or nucleotide analog and a method for detecting an agent which exhibits inhibitory activity to an HBV which exhibits resistance or decreased sensitivity to one or more of ADV, LMV, TFV and/or FTC.

Bartholomeusz et al. (WO03/066841 A1 in IDS of 10/23/2006) teach an isolated hepatitis B variant comprising a nucleotide mutation in a gene encoding a DNA polymerase and in S gene and methods for determining the potential for an HBV to exhibit reduced sensitivity to a nucleoside or nucleotide analog and a method for detecting an agent which exhibits inhibitory

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activity to an HBV which exhibits resistance or decreased sensitivity to one or more of ADV, LMV, TFV and/or FTC (see claims 1-39).

Since Applicant's invention does not contribute a special technical feature when viewed over the prior art they do not have a single inventive concept and thus the claims lack unity of invention. Therefore, the instant invention lacks Unity of Invention and restriction is set forth as it applies to U.S. practice.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AGNIESZKA BOESEN whose telephone number is (571)272-8035. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Agnieszka Boesen/
Examiner, Art Unit 1648